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SUBJECT: TWO NEW ECHR JUDGMENTS AGAINST GOAJ

Classified By: Pol/Econ Chief Robert Garverick for reasons 1.4 b and d

11. (C) SUMMARY: On July 10 the European Court of Human Rights (ECHR) delivered two new judgments against the GOAJ. The judgments in both Hajibeyli v. Azerbaijan and Rahmanova v. Azerbaijan found that the GOAJ had violated the plaintiff's right to a fair and timely trial, along with other violations. When these judgments become final, there will be ten outstanding cases against GOAJ being monitored by the ECHR's Monitoring Commission awaiting full implementation. In addition, there are approximately 30 cases against GOAJ awaiting judgments in the ECHR pipeline. Full compliance with and implementation of these judgments is an essential part of Azerbaijan's Council of Europe commitments. While it is too soon to tell whether the GOAJ will fully comply with these judgments, early trends present a worrying sign that political will to implement these judgments is lacking within the GOAJ. END SUMMARY

12. (SBU) On July 10 the ECHR delivered two new judgments against the GOAJ. In the case of Hajibeyli v. Azerbaijan, it was determined that the GOAJ violated Article 6.1 of the European Convention on Human Rights which guarantees the right to a fair trial within a reasonable time and Article 2 of Protocol No. 4 which guarantees freedom of movement. Vagif Hajibeyli was an opposition politician who was arrested after participating in a rally in April 2000. He was subsequently kept under house arrest for over 5 years before the GOAJ lifted this restriction and stopped court proceeding against him due to these charges becoming time-barred. In Rahmanova v. Azerbaijan, the ECHR also found a violation of Article 6.1 as well as a violation of Protocol No.1 Article 1 which protects private property. Leyli Rahmonova's case involved an unfair judicial proceeding that denied her access to an apartment that a previous judicial decision had given her.

13. (C) These two judgments will become final in three months, if the GOAJ does not file a further appeal. At this point such an appeal seems unlikely. Once the judgments are final, they will be added to eight other cases currently being monitored by the ECHR's Monitoring Commission, and ultimately by ECHR Council of Ministers, awaiting full implementation by the GOAJ. These cases will not be closed until the Monitoring Commission determines that the judgments have been completely implemented by the GOAJ. This includes not only paying any financial restitution deemed necessary by the ECHR, but also translating and distributing the judgments to the appropriate branches of the GOAJ, and otherwise ensuring that these ministries and agencies understand their new responsibilities in light of the judgments. To this point, none of the previous ECHR decisions against the GOAJ has been fully implemented.

14. (C) In addition, there are approximately 30 cases

regarding Azerbaijan awaiting judgment before the ECHR. These judgments are expected within the next year or two. Council of Europe officials expect the numbers of cases sent to the ECHR from Azerbaijan to increase dramatically over the next few years as familiarity with the ECHR and its rules and regulations spreads within country.

COMMENT  
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¶5. (C) Full implementation of ECHR judgments takes time, especially for countries that are new to the Council of Europe. In discussions with the Prosecutor General's office, it seems the GOAJ is still discovering the procedure it will use to respond to the most recent and future ECHR decisions. It is therefore too soon to tell whether the GOAJ will fully implement these ten judgments up to the standards set by the ECHR.

¶6. (C) Proper implementation of these judgments is not just a matter of technical resources, however, but also of the political will to ensure its completion. The Council of Europe puts the burden of proof onto the member state to provide evidence to the Monitoring Commission regarding this implementation. To this point, the GOAJ has been slow to provide this information. This may be an indication of resistance to follow ECHR judgments with the GOAJ. If so, this would be another layer of tension in what is already a difficult relationship between the GOAJ and the Council of Europe.  
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